

## Department of Energy

## § 430.27

sockets for medium screw base lamps or pin-based fluorescent lamps shall be measured in accordance with section 4 of appendix V of this subpart.

(y) *Medium Base Compact Fluorescent Lamps.* The initial efficacy, lumen maintenance at 1,000 hours, lumen maintenance at 40-percent of rated life, rapid cycle stress test, and lamp life shall be measured in accordance with section 4 of appendix W of this subpart.

(z) *Dehumidifiers.* (1) When using appendix X (see the note at the beginning of appendix X), the energy factor for dehumidifiers, expressed in liters per kilowatt hour (L/kWh), shall be measured in accordance with section 4.1 of appendix X of this subpart.

(2) When using appendix X1 (see the note at the beginning of appendix X1), the integrated energy factor for dehumidifiers, expressed in L/kWh, shall be determined according to paragraph 5.2 of appendix X1 to this subpart.

(aa) *Battery Chargers.* Upon the effective date of any energy conservation standard for battery chargers governing active and maintenance mode energy consumption, the 24-hour energy consumption of a battery charger in active and maintenance modes, expressed in watt-hours, and the power consumption of a battery charger in maintenance mode, expressed in watts, shall be measured in accordance with section 5.10 of appendix Y of this subpart. The power consumption of a battery charger in standby mode and off mode, expressed in watts, shall be measured in accordance with sections 5.11 and 5.12, respectively, of appendix Y of this subpart.

(bb) *External Power Supplies.* The energy consumption of an external power supply, including active-mode efficiency expressed as a percentage and the no-load, off, and standby mode energy consumption levels expressed in watts, shall be measured in accordance with section 4 of appendix Z of this subpart.

[42 FR 27898, June 1, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 430.23, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

EFFECTIVE DATE NOTE: At 77 FR 74571, Dec. 17, 2012, § 430.23 was amended by removing the

words “section 4.2 of appendix P” in paragraph (p)(1)(i) and adding in their place “section 5.2 of appendix P”; and by removing the words “section 4.3 of appendix P” in paragraph (p)(1)(ii) and adding in their place “section 5.3 of appendix P”, effective Jan. 16, 2013.

### § 430.24 [Reserved]

### § 430.25 Laboratory Accreditation Program.

Testing for fluorescent lamp ballasts performed in accordance with appendix Q1 to this subpart shall comply with this § 430.25. The testing for general service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps shall be performed in accordance with Appendix R to this subpart. The testing for medium base compact fluorescent lamps shall be performed in accordance with Appendix W of this subpart. This testing, with the exception of lifetime testing of general service incandescent lamps, shall be conducted by test laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) or by an accrediting organization recognized by NVLAP. NVLAP is a program of the National Institute of Standards and Technology, U.S. Department of Commerce. NVLAP standards for accreditation of laboratories that test for compliance with standards for fluorescent lamp ballast luminous efficiency (BLE), lamp efficacy, lamp lifetime, and fluorescent lamp CRI are set forth in 15 CFR part 285. A manufacturer's or importer's own laboratory, if accredited, may conduct the applicable testing. Testing for BLE may also be conducted by laboratories accredited by Underwriters Laboratories or Council of Canada. Testing for fluorescent lamp ballasts performed in accordance with Appendix Q to this subpart is not required to be conducted by test laboratories accredited by NVLAP or an accrediting organization recognized by NVLAP.

[77 FR 4216, Jan. 27, 2012]

### § 430.27 Petitions for waiver and applications for interim waiver.

(a)(1) Any interested person may submit a petition to waive for a particular basic model any requirements of

§ 430.23, or of any appendix to this subpart, upon the grounds that the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures, or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics, or water consumption characteristics (in the case of faucets, showerheads, water closets, and urinals) as to provide materially inaccurate comparative data.

(2) Any interested person who has submitted a Petition for Waiver as provided in this subpart may also file an Application for Interim Waiver of the applicable test procedure requirements.

(b)(1) A Petition for Waiver shall be submitted either electronically to *AS\_Waiver\_Requests@ee.doe.gov* or by mail, in triplicate, to U.S. Department of Energy, Building Technologies Program, Test Procedure Waiver, 1000 Independence Avenue, SW., Mailstop EE-2J, Washington, DC 20585-0121. Each Petition for Waiver shall:

(2) An Application for Interim Waiver shall be submitted in triplicate, with the required three copies of the Petition for Waiver, to the Assistant Secretary for Conservation and Renewable Energy, U.S. Department of Energy. Each Application for Interim Waiver shall reference the Petition for Waiver by identifying the particular basic model(s) for which a waiver and temporary exception are being sought. Each Application for Interim Waiver shall demonstrate likely success of the Petition for Waiver and shall address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver. Each Application for Interim Waiver shall be signed by the applicant or by an authorized representative.

(c)(1) Each petitioner, after filing a Petition for Waiver with DOE, and after the Petition for Waiver has been published in the FEDERAL REGISTER, shall, within five working days of such publication, notify in writing all known manufacturers of domestically marketed units of the same product type (as listed in section 322(a) of the

Act) and shall include in the notice a statement that DOE has published in the FEDERAL REGISTER on a certain date the Petition for Waiver and supporting documents from which confidential information, if any, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11. Each petitioner, in complying with the requirements of this paragraph, shall file with DOE a statement certifying the names and addresses of each person to whom a notice of the Petition for Waiver has been sent.

(2) Each applicant for Interim Waiver, whether filing jointly with, or subsequent to, a Petition for Waiver with DOE, shall concurrently notify in writing all known manufacturers of domestically marketed units of the same product type (as listed in Section 322(a) of the Act) and shall include in the notice a copy of the Petition for Waiver and a copy of the Application for Interim Waiver. In complying with this section, each applicant shall in the written notification include a statement that the Assistant Secretary for Conservation and Renewable Energy will receive and consider timely written comments on the Application for Interim Waiver. Each applicant, upon filing an Application for Interim Waiver, shall in complying with the requirements of this paragraph certify to DOE that a copy of these documents have been sent to all known manufacturers of domestically marked units of the same product type (as listed in section 322(a) of the Act). Such certification shall include the names and addresses of such persons. Each applicant also shall comply with the provisions of paragraph (c)(1) of this section with respect to the petition for waiver.

(d) Any person submitting written comments to DOE with respect to an Application for Interim Waiver shall also send a copy of the comments to the applicant.

(e) If administratively feasible, applicant shall be notified in writing of the disposition of the Application for Interim Waiver within 15 business days of receipt of the application. Notice of DOE's determination on the Application for Interim Waiver shall be published in the FEDERAL REGISTER.

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## Pt. 430, Subpt. B, App. A

(f) The filing of an Application for Interim Waiver shall not constitute grounds for noncompliance with any requirements of this subpart, until an Interim Waiver has been granted.

(g) An Interim Waiver from test procedure requirements will be granted by the Assistant Secretary for Conservation and Renewable Energy if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver.

(h) An interim waiver will terminate 180 days after issuance or upon the determination on the Petition for Waiver, whichever occurs first. An interim waiver may be extended by DOE for 180 days. Notice of such extension and/or any modification of the terms or duration of the interim waiver shall be published in the FEDERAL REGISTER, and shall be based on relevant information contained in the record and any comments received subsequent to issuance of the interim waiver.

(i) Following publication of the Petition for Waiver in the FEDERAL REGISTER, a petitioner may, within 10 working days of receipt of a copy of any comments submitted in accordance with paragraph (b)(1) of this section, submit a rebuttal statement to the Assistant Secretary for Conservation and Renewable Energy. A petitioner may rebut more than one response in a single rebuttal statement.

(j) The petitioner shall be notified in writing as soon as practicable of the disposition of each Petition for Waiver. The Assistant Secretary for Conservation and Renewable Energy shall issue a decision on the petition as soon as is practicable following receipt and review of the Petition for Waiver and other applicable documents, including, but not limited to, comments and rebuttal statements.

(k) The filing of a Petition for Waiver shall not constitute grounds for noncompliance with any requirements of this subpart, until a waiver or interim waiver has been granted.

(l) Waivers will be granted by the Assistant Secretary for Conservation and Renewable Energy, if it is determined that the basic model for which the waiver was requested contains a design characteristic which either prevents testing of the basic model according to the prescribed test procedures, or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics, or water consumption characteristics (in the case of faucets, showerheads, water closets, and urinals) as to provide materially inaccurate comparative data. Waivers may be granted subject to conditions, which may include adherence to alternate test procedures specified by the Assistant Secretary for Conservation and Renewable Energy. The Assistant Secretary shall consult with the Federal Trade Commission prior to granting any waiver, and shall promptly publish in the FEDERAL REGISTER notice of each waiver granted or denied, and any limiting conditions of each waiver granted.

(m) Within one year of the granting of any waiver, the Department of Energy will publish in the FEDERAL REGISTER a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, the Department of Energy will publish in the FEDERAL REGISTER a final rule. Such waiver will terminate on the effective date of such final rule.

(n) In order to exhaust administrative remedies, any person aggrieved by an action under this section must file an appeal with the DOE's Office of Hearings and Appeals as provided in 10 CFR part 1003, subpart C.

[51 FR 42826, Nov. 26, 1986, as amended at 60 FR 15017, Mar. 21, 1995; 63 FR 13316, Mar. 18, 1998; 76 FR 12502, Mar. 7, 2011]

### APPENDIX A TO SUBPART B OF PART 430—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ELECTRIC REFRIGERATORS AND ELECTRIC REFRIGERATOR-FREEZERS

The provisions of appendix A shall apply to all products manufactured on or after the effective date of any amended standards promulgated by DOE pursuant to Section